

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOSE GONZALEZ,
Plaintiff,

v.

FALLANGHINA, LLC, et al.,
Defendants.

Case No. [16-cv-01832-MEJ](#)

**ORDER FINDING AS MOOT MOTION
TO DISMISS**

Re: Dkt. No. 18

Pending before the Court is the Motion to Dismiss filed by Defendant(s). Dkt. No. 18. However, on May 31, 2016, Plaintiff filed an Amended Complaint. Dkt. No. 22. Under Federal Rule of Civil Procedure 15, a party may amend its pleading once “as a matter of course” within “21 days after service of a motion under Rule 12(b), (e), or (f).” Fed. R. Civ. P. 15(a)(1)(B). “[T]he general rule is that an amended complaint supercedes the original complaint and renders it without legal effect” *Lacey v. Maricopa County*, 693 F.3d 896, 927 (9th Cir. 2012) (en banc). Thus, as no prior amended complaints have been filed, Plaintiff could file an amended complaint as a matter of course under Rule 15(a).

Further, “[d]ismissal of the superseded original complaint would not alter the proceedings . . . as the parties would continue to litigate the merits of the claims contained in the now-operative First Amended Complaint.” *See Liberi v. Defend Our Freedoms Founds., Inc.*, 509 F. App’x 595, 596 (9th Cir. 2013) (dismissing as moot appeal of denial of an anti-SLAPP motion regarding a superseded complaint). Thus, since the pending motion is based on the original complaint, the Court hereby DENIES the motion as moot. Defendants shall file an answer or other responsive pleading within 21 days from the date of this Order. The Court advises Plaintiff that no further amendments may be made without seeking leave of Court pursuant to Rule 15 and Civil Local

Rule 7.

IT IS SO ORDERED.

Dated: June 1, 2016



MARIA-ELENA JAMES
United States Magistrate Judge

United States District Court
Northern District of California